

CrRLJ 7.5
NEW TRIAL

(a) Grounds for New Trial. The court may, on its own motion or on motion of the defendant, grant a new trial for any one of the following causes when it affirmatively appears that a substantial right of the defendant was materially affected:

- (1) Receipt by the jury of any evidence, paper, document or book not allowed by the court;
- (2) Misconduct of the prosecution or jury;
- (3) Newly discovered evidence material for the defendant, which the defendant could not have discovered with reasonable diligence and produced at the trial;
- (4) Accident or surprise;
- (5) Irregularity in the proceedings of the court, jury or prosecution, or any order of court, or abuse of discretion, by which the defendant was prevented from having a fair trial;
- (6) Error of law occurring at the trial and objected to at the time by the defendant;
- (7) That the verdict or decision is contrary to law and the evidence;
- (8) That substantial justice has not been done. When the motion is based on matters outside the record, the facts shall be shown by affidavit.

(b) Time for Motion; Contents of Motion. A motion for new trial must be served and filed within 5 days after the verdict or decision. The motion for a new trial shall identify the specific reasons in fact and law for each ground on which the motion is based.

(c) Time for Affidavits. When a motion for a new trial is based upon affidavits they shall be served with the motion. The prosecuting authority has 5 days after such service within which to serve opposing affidavits. The court may extend the period for submitting affidavits to a time certain for good cause shown or upon stipulation.

(d) Statement of Reasons. In all cases where the court grants a motion for a new trial, it shall, in the order granting the motion, state whether the order is based upon the record or upon facts and circumstances outside the record which cannot be made a part thereof. If the order is based upon the record, the court shall give definite reasons of law and fact for its order. If the order is based upon matters outside the record, the court shall state the facts and circumstances upon which it relied.

[Adopted effective September 1, 1987; Amended effective September 1, 1991.]